THE HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No. 9031 of 1997

Dated 31.01.2007

Between:

G.Narasimha and another. .. Petitioners.

And

The Indian Institute of Chemicals

Technology, Tarnaka, Hyderabad

Represented by its Director and another. .. Respondents

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WRIT PETITION No. 9031 of 1997

ORDER:

This Writ Petition is filed being aggrieved by the order made in I.D.No.645 of 1993, dated 01.06.1996, on the file of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad.

It appears, the petitioners raised a dispute under Section 2-A (2) of the Industrial Disputes Act (for short, 'the Act') claiming relief of reinstatement, backwages and other benefits. It is their case that they were initially appointed as Helpers on daily wages of Rs.10/- per day in the Regional Research Laboratory, which is

subsequently renamed as the Indian Institute of Chemical Technology, the first respondent herein. Later on, one of the Helpers was made as a contractor and the others were made to work under him till 31.08.1990. The petitioners were not given appointment orders, but were given identity cards. The respondent organization maintained attendance register and paid wages to the petitioners. The wages of the petitioners were revised from time to time and their last drawn wage was Rs.20/- per day. They are workmen as defined under Section 2 (s) of the Act. They are engaged on daily wages, therefore, the disengagement of the services of the petitioners on 31.08.1990 is arbitrary and illegal. It is also their case that as per the direction given by the Supreme Court in Writ Petition No.631 of 1988, the Head Office framed a scheme known as 'Casual Workers Absorption Scheme, 1990' and it was communicated to the respondents on 04.10.1990 and as per the said scheme, they are entitled for regularization of their services, therefore, the termination of the petitioners with effect from 31.08.1990 without complying with the provisions of Section 25-F and Section 25(N) of the Act is arbitrary and illegal.

A detailed counter affidavit was filed before the Labour Court by the first respondent herein. It is stated that the respondent is a National Laboratory set up under the Aegis of Council of Scientific and Industrial Research (CSIR), which is a Society registered under Societies Registration Act, 1860. The CSIR is a premier Scientific and Research Organization in the country, under the department of Scientific and Industrial Research, Ministry of Science and Technology, Government of India. No industrial trade, business or manufacturing activities are carried on by the respondent, hence, it is not an industry, and the Labour Court has no jurisdiction to entertain the dispute. Further, the petitioners are only engaged by a contractor for the purpose of clearing the jungle and leveling of the site and they are not daily wage employees of the respondent organization.

On behalf of the petitioners, W.W.1 and W.W.2 were examined and Exs.W1 to W4 were marked. On behalf of the respondent, M.W.1 and M.W.2 were examined and Exs.M1 to M3 were marked.

On the basis of the pleadings, the Tribunal formulated the following points for its consideration:

(1) Whether the respondent is an industry ?

(2) Whether the petitions are maintainable ?

(3) Whether the petitioners are casual workers or contract

workers ?

(4) Whether the petitioners are entitled to any relief and

if so, what relief ?

After considering the oral and documentary evidence in detail, in so far as point No.3 is concerned, the Tribunal found that the petitioners are not the daily wage employees of the respondent organization, but they are all engaged by a contractor

and working with the said contractor. In this regard, the Tribunal considered Ex.W1, and thus dismissed the claim petition. Aggrieved by the same, the present Writ Petition is filed.

The learned counsel for the petitioners strenuously contended that the petitioners joined the service of the respondent company in the year 1985 and 1986 respectively and Ex.W1 and W2 are the entry permits issued to the petitioners to enter the solvent plant of the respondent company, therefore, it must be deemed that the petitioners worked in the respondent organization from 09.09.1986 to 17.10.1987 on daily wages under the supervision of installation department, and therefore, the termination of the services of the petitioners is in violation of Section 25-F of the Act, whereas, the learned counsel for the respondents supported the award passed by the Labour Court, and further submitted that Exs.W.1 and W.2 are only entry permit cards issued to the petitioners and such permit cards are issued to every employee, who is supposed to work in the industry, whether it is on behalf of Management or regular employee or those who work with a contractor for carrying out such miscellaneous works, and the petitioners were engaged only for the purpose of clearance of jungle and leveling of the site, and the first respondent filed Ex.M1 an office memorandum, dated 09.04.1990, by which a contract work worth Rs.1,500/- was allotted to the first petitioner, who was directed to engage 10 casual workers to undertake the cleaning works and make arrangements for the cultural programme and dinner held on 01.04.1990.

For the aforesaid reasons, I am of the opinion that the Labour Court has not committed any error in coming to the conclusion that the petitioners are not the daily wage workers. As per the evidence on record, they were engaged by a contractor and they are not daily wage workers of the organization as such, and further, absolutely there is no evidence before the Tribunal to show that the petitioners worked for more than 240 days. Once, there is no relationship of employer and employee, even examining the question as to whether there is any violation of Section 25 (F) of the Act, does not arise. The petitioners have not made out any case calling for interference of this Court under Article 226 of the Constitution of India.

Therefore, the Writ Petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition is dismissed. No order as to costs.

(C.V.RAMULU,J)

31.01.2006

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